

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **9 APRIL 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPLICATION FOR THE RETENTION OF EXISTING B2 AND B8 USES, TOGETHER WITH ALL EXISTING PERMITTED USES AND CHANGE OF USE TO INCLUDE SUI GENERIS USE TO IMPORT, STORE, RECYCLE, AND PROCESS WASTE FOR THE MANUFACTURE OF BIOMASS FUEL AND SOLID RECOVERED FUEL PELLETS AND BRIQUETTES AT THE FORMER LAYBOND PRODUCTS LIMITED, RIVERSIDE, RIVER LANE, SALTNEY.**

APPLICATION NUMBER: **051499**

APPLICANT: **LANCASHIRE FUELS 4U LIMITED**

SITE: **FORMER LAYBOND PRODUCTS/BOSTICK FACTORY, RIVERSIDE, SALTNEY, CH4 8RS**

APPLICATION VALID DATE: **21 JANUARY 2014**

LOCAL MEMBERS: **COUNCILLOR RICHARD LLOYD**

TOWN/COMMUNITY COUNCIL: **SALTNEY TOWN COUNCIL**

REASON FOR COMMITTEE: **OUTSIDE OF THE SCHEME OF DELEGATION – SITE AREA OVER 2 HECTARES**

SITE VISIT: **YES – LOCAL MEMBER REQUESTED**

1.00 SUMMARY

1.01 Planning permission has been sought to retain the existing use classes on the site (B2 and B8) and to change the use to include sui generis waste management operations. The proposal involves the reception, storage, recycling and processing of waste materials such as waste timber, wood waste products, green waste, sawdust, carpet fibres and residual waste from material recycling facilities (such as

cardboard, paper, plastics fibres) to manufacture biomass and solid recovered fuels in the form of briquettes and pellets.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 The applicant entering into a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to:-

- Provision of a commuted sum of £5100 to provide additional funding required for the delivery of Phase 2 of the Saltney and Saltney Ferry 'Sense of Place' Riverside Walk Project.

2.02 Conditions to include:-

1. Commencement
2. Approved Plans
3. Retention of approved plans on site
4. No use of access onto Ewart Street/Flint Road
5. No external storage of waste
6. No food waste
7. Roller doors completed prior to importation of waste
8. Repairs to buildings prior to importation of waste
9. Keep buildings and roller doors maintained
10. Roller doors shut
11. Noise limits
12. Noise management plan scheme
13. No exportation of electricity, steam or heat off-site from the biomass boiler
14. Emergency Flood Management Plan
15. No additional external lighting
16. Retention of existing boundary treatment
17. Drainage plan
18. Dust management scheme
19. Details of biofilters
20. Odour management plan
21. Habitat Regulations mitigation measures

2.03 Informatives in relation to informing Dŵr Cymru/Welsh Water with regards to foul drainage discharge.

2.04 If the Section 106 Agreement (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 **Local Member** – Councillor Richard Lloyd has requested that the application be referred to the Planning Committee as the site area is over 2 hectares in size. He has concerns over types of waste to be stored on site for example; food which could give rise to odours, and possible toxic fumes from plastic waste. Councillor Lloyd has also requested a Committee Site Visit so that Members can see exactly

where the waste will be stored, and the process involved in making biomass fuel from waste. Councillor Lloyd has also requested the developer enter into a Section 106 agreement to provide for a developer contribution towards Phase 2 of the 'Sense of Place' Riverside Project.

- 3.02 **Saltney Town Council** – No response received
- 3.03 **Adjoining Member** – Councillor Christine Jones agreed that the matter could be dealt with under delegated powers and requested to speak with the case officer.
- 3.04 **Adjoining Community Council – Sealand Community Council**
No objections.
- 3.05 **Head of Assets and Transportation** has no objections and no recommendations on highways grounds
- 3.06 **The Public Rights of Way Officer** has confirmed that Public Footpath 2 abuts the site but is unaffected by the development. The path must be protected and free from interference from the construction.
- 3.07 **Head of Public Protection** – Since the site was acquired a substantial amount waste material has been brought onto site prior to any process being started and as a result, the Local Authority have been in receipt of a few odour complaints which have been investigated by Natural Resources Wales. If Planning permission is granted then the process would be controlled by a Natural Resources Permit as such all Statutory Nuisance functions for odour, noise and dust will pass to the NRW and the Local Authority will no longer be able to enforce against these.
- 3.08 It is understood that should the process/operation be permitted by NRW there should not be any fugitive emissions from the processing and storage of waste. The entire process would be carried out within buildings and odour would be contained by negative air pressure ensuring that no fugitive emissions would escape. All process emissions should be controlled by the Permit and the Management Plans.
- 3.09 It is understood that it is likely that a formal scheme for monitoring noise at the site boundary would be a requirement of the Environmental Permit and that as a minimum, quarterly measurements would be taken in the first year of operation, and annual measurements thereafter. A specific and repeatable procedure for measurement, meeting British Standard 4142 would be formulated by the monitoring body and adhered to so that results may be compared.

- 3.10 However, it is considered important that the Local Authority has something in place to protect the local environment from increasing noise levels therefore in order to have an element of control, a noise condition is recommended should planning permission be granted to ensure that the rating level of noise emitted from the site's process plant, equipment and machinery shall not exceed 5 LAeq (1hr daytime and 5min night time) above the background level. In addition it is recommended that management plans for noise, odour and dust are also submitted and required as conditions.
- 3.11 **Welsh Water/Dŵr Cymru** – No response received
- 3.12 **Natural Resources Wales** – has commented on the application in relation to flood risk, drainage, Environmental Permitting and European Protected Sites. They have offered no objections.
- 3.13 **Airbus** – the proposal does not conflict with aerodrome safeguarding criteria. Accordingly, Airbus have no aerodrome safeguarding objection to the proposal.
- 3.14 **Flintshire County Council Emergency Planning Unit** are content that a requirement for a Flood Management Plan can be conditioned.

4.00 PUBLICITY

- 4.01 Press Notice, Site Notice, Neighbour Notification
- 4.02 This application was advertised by way of press and site notice and neighbour notification letters were dispatched to nearest receptors and surrounding business units.
- 4.03 During the consideration of this application a total of 36 letters of objection have been received in response to the consultation on this application.
- 4.04 The main planning based representations in objection that are material to the determination of this application include:
- Odours (which get worse in warm weather),
 - Waste releasing vapours and gases known as bioaerosols
 - Proximity to the High School and residential properties
 - Impact and harm on the surrounding businesses within the business units/industrial estates which surround the site.
 - Impact and harm on adjacent ASKA swimming pool and its users; the odour can be detected within the swimming pool
 - Proximity to a swimming pool used by children and babies; the proposal is unhygienic and poses health and safety concerns for children and babies using this swimming facility due to the unsanitary conditions which have resulted from this facility
 - The site is not within the Area of Search for waste management
 - Processing of food and other wastes would give rise to odour of

- rotting food and infestation by vermin and flies
- Retrospective application without necessary permits or permissions from the Council or NRW
- Serious health concerns from dust and odours
- Dust and windblown waste and fibres
- Dust and ash on cars parked in adjacent units
- External storage of waste
- External processing of waste
- Screening of the site fence is concealing activities on site as the operators process illegal waste
- Flies, vermin and litter
- Pollution
- Traffic and road safety issues, especially due to the high numbers of small children using a facility nearby.
- Noise
- Impact on drainage and blockages of drains from windblown fibres

5.00 SITE HISTORY

- 5.01 The site is the former 'Laybond' and 'Bostick' Factory and has been in industrial use for many years, and is part of a long-established industrial estate.
- 5.02 It has existing planning permission for B1, B2 and B8 Use Classes, and a range of industrial buildings with dedicated drainage systems suited to the previous uses (manufacture, packing and storage of bitumen and solvent-based products).
- 5.03 4/6/13872 – Colas Products Limited, New Warehouse development to form finished products warehouse, storage area, powder plant, and flameproof raw materials warehouse – approved 08.01.1985
- 5.04 96/6/00602 – Laybound Products Limited – Enclosure of existing canopy to tin store and alterations and extension to high flash building to form cut-back production – approved 30.10.1986

6.00 PLANNING POLICIES

- 6.01 The main planning policies and guidance relevant to the determination of this planning application are considered to be:

6.02 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

- Policy STR1 - New Development
- Policy STR7 - Natural Environment
- Policy STR10 - Resources
- Policy GEN1 - General Requirements for Development
- Policy D1 - Design Quality, Location and Layout
- Policy D4 - Outdoor Lighting

Policy WB3 - Statutory Sites of National Importance
Policy AC2 - Public Rights of Way
Policy AC13 - Access and Traffic Impact
Policy EM7 - Bad Neighbour Industry
Policy EWP6 - Areas of Search for Waste Management Facilities
Policy EWP7 - Managing Waste Sustainability
Policy EWP8 - Control of Waste and Operations
Policy EWP12 - Pollution
Policy EWP13 - Nuisance
Policy EWP16 - Water Resources
Policy EWP17 - Flood Risk

6.03 **GOVERNMENT GUIDANCE**

Planning Policy and Guidance

Planning Policy Wales (2014)

Technical Advice Note 5 – Nature Conservation and Planning (2009)

Technical Advice Note 8 – (2005)

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 21 – Waste (2014)

6.04 Waste Strategy Policy and Guidance

Towards Zero Waste: The overarching Waste Strategy Document for Wales, June 2010

Collections, Infrastructure and Markets Sector Plan, 2012

6.05 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly policies relating to waste management and amenity, nature conservation and statutory sites. The Policies and guidance contained within TAN21 are also central to the determination of this application.

7.00 **PLANNING APPRAISAL**

7.01 Introduction

The details of the proposed development will be outlined below along with a description of the site and location, site constraints and the issues that will be assessed within the main planning appraisal.

7.02 ***Details of Proposed Development***

Planning permission has been sought to retain the existing use classes on the site (B2 and B8) and to change the use to include sui generis waste management operations. The proposal involves the reception, storage, recycling and processing of waste materials such as timber, green waste, sawdust, wood waste products, carpet fibres and residual waste from material recycling facilities (cardboard, paper, plastics) to manufacture biomass fuel and solid recovered fuels in the

form of briquettes and pellets. Processing would involve shredding, screening, drying, milling and the processed material would be pressed into a pellet or briquette using pressure to create fuel products.

- 7.03 There would be no new built development on site. All operations would be carried out within the existing buildings on site. The primary purpose of the operations seeking permission is to manufacture a fuel from residual waste and waste wood. Whilst the original description of the development for the planning application included food waste within the description, it has been confirmed that there would be no food waste imported to the site. Furthermore, the original description also included 'waste to energy use'. This reference has been removed from the description of development but the proposal does include the provision of a small 750kw biomass boiler which would be fuelled by the pellets produced on site and the heat produced would be used to dry the waste products when necessary and the electricity produced would be used on site. There would be no exportation of electricity off site from the production of energy via the combustion of biomass or solid recovered fuel.
- 7.04 The application is partially retrospective as the applicant has commenced importing waste into the site. However, within this waste there is no food waste contained within it. Equipment has also been installed within the existing buildings.
- 7.05 All processing would be carried out within existing buildings, with the unloading of delivery vehicles taking place within buildings, and the loading of vehicles with biomass products also taking place under cover with roller shutter doors closed at all times, except to allow the passage of vehicles.
- 7.06 The proposal suggests that there would be up to 40,000 tones per annum of residual waste from materials recycling facilities with 25,000 tonnes per annum of pure waste wood. The pure waste wood products would be used to create a biomass fuel and the residual waste would be blended with wood wastes to create a solid recovered fuel. The waste materials would be stored and processed within the confines of existing buildings with environmental controls.
- 7.07 ***Site Description and Location***
The site is the former Bostick/Laybond factory site and is located on the western boundary of an existing industrial estate along River Lane, Saltney. The site is a 3.54 hectare site predominantly under hard paved surfaces and buildings which have been developed for industrial use for many years, and is part of a long established industrial estate.
- 7.08 The existing extant planning permission includes B1, B2 and B8 Use Classes, and a range of industrial buildings suited to previous uses

such as manufacturing, packing, storage of bitumen and solvent-based products. One building within the site is currently in use for storage for a furniture (bed) distributor but once the lease has ended, the applicants would also use this building for the manufacture of fuel waste and the storage of waste. There is existing industrial development on the eastern and southern boundaries of the site and an extant planning permission for industrial development, yet to be implemented, is located on the western boundary.

7.09 ***Relevant Planning Constraints/Considerations***

The application area lies partially in Zone C1 of Welsh Government's Development Advice Map, as referred to in TAN15: Development & Flood Risk. The Flood Map also confirms that a small area on the south western boundary of the site is located within the extreme flood risk outline.

7.10 The site area is not within an environmentally sensitive area as defined in Regulation 2(1) of the Environmental Impact Regulations 1999. However, the Afon Dyfrdwy/River Dee Special Area of Conservation and Site of Special Scientific Interest is located immediately adjacent to the site as it abuts the northern boundary of the site.

7.11 The site is adjacent to public right of way, which is located along the northern boundary of the site and parallel with the River Dee. The site is also allocated within the Flintshire Unitary Development Plan (UDP) as a Principal Employment site and lies within one of the Areas of Search for waste management facilities as defined by Policy EWP6 of the Flintshire UDP. The site is also within the Settlement Boundary.

7.12 **Issues**

The main land use planning issues associated with the determination of this planning application are considered to be:-

1. Principle of the Development and suitability of the location
2. Need
3. Flood risk
4. Drainage
5. Access/transport
6. Amenity; Air Quality, dust and bioaerosols, Noise, Odour, Flies, Vermin and litter
7. Habitats Regulations and impact on designated sites.
8. Environmental Permitting
9. Public Rights of Way

7.13 ***Principle of the Development and suitability of the location***

As stated previously, the site is allocated within the Flintshire UDP as a Principal Employment site and is located within an existing Industrial Estate with existing B2 and B8 uses permitted on the site. It could be argued that the proposed process of manufacturing fuel briquettes

and pellets could be carried out under the existing use class provision in which the site benefits under the B2 and B8 use classes. However, for the avoidance of doubt, the applicant has applied for planning permission for sui generis waste uses. This will also allow the Local Planning Authority to gain control of the operations through planning conditions which would not be permitted should the applicant carry out the proposed operations under the existing permitted uses on site.

7.14 The proposal involves the manufacturing of fuel pellets/briquettes from waste and therefore, it is considered that the principle of undertaking manufacturing processes is accepted under the existing consents under the B2 use class. The raw materials used for creating the fuel would be from waste. This site lies within one of the Areas of Search listed within Policy EWP6. Where a proposal is made for the development of a site which would involve the management of waste which is listed within the locations identified within the Area of Search policy, then permission will be granted subject to the proposal meeting other relevant plan policies, particularly Policies EWP7 and EWP8.

7.15 ***Need***

The proposal would contribute to the management of waste in accordance with the Landfill Directive and the Waste Framework Directive. The production of fuel pellets and briquettes from waste would divert waste from disposal and would create a resource from waste which would otherwise be disposed of. This would effectively move this waste up the Waste Hierarchy and it would be considered to be the recovery of waste. The proposal therefore accords with the National Waste Strategy; Towards Zero Waste, as it would contribute towards reducing waste disposal.

7.16 The Collections, Infrastructure and Markets Sector (CIMS) Plan which is one of the suite of waste sector plans which is part of the National Waste Strategy, looks to create conditions to enable as much waste as possible to be managed in Wales. In order to achieve this, Wales will have to establish a network of facilities to deal with the current and future waste arisings. Significant new capacity is required and this proposal would contribute to the network of facilities which are required to deliver the Welsh Government's vision for zero waste. The proposal would contribute to providing the County and the Region with a network of new and modern waste management facilities by increasing capacity and producing a valuable product from the raw material which would be recovered from the waste stream.

7.17 TAN21 states that more waste recovery facilities need to be developed across Wales to ensure that sufficient disposal capacity is maintained at a level appropriate to support the overall aims of Towards Zero Waste and the CIMS Plan.

7.18 The proposal would also utilise existing redundant buildings, a principle which is supported by the new TAN 21 on Waste, as is

locating proposals where site infrastructure is present which would include electricity grid connections. Whilst this application does not include the provision of a large Energy from Waste Facility, the site is located adjacent to three sub-stations which would provide the infrastructure for exportation of energy should the applicant wish to expand the site in the future. This would however be subject of an additional planning application.

7.19 TAN21 and the CIMS plan have effectively superseded the Regional Waste Plan. Therefore, when assessing compliance with UDP Policy EWP7 we have to look to TAN21 and CIMS which the proposal accords.

7.20 Residues from material waste recycling facilities would be used to make fuel pellets and briquettes which would effectively reduce reliance on fossil fuels. It would also recover energy which is a vital component of the waste management system in Wales and is supported by TAN21 and TAN8.

7.21 ***Flood risk***

The application area lies partially in Zone C1 of Welsh Government's Development Advice Map, as referred to in TAN15: Development & Flood Risk. NRW's Flood Map also confirms that a small area on the south western boundary of the site is located within the extreme flood risk outline. NRW have based their comments on the development proposals on the basis that the sui generis change of use planning application seeks to maintain a "less vulnerable" use of the site as per Figure 2 of TAN15. The Local Planning Authority would concur with this approach. There is no new built development on site to increase flood risk and there would be no external storage of waste materials and the site has adequate existing drainage.

7.22 The submitted Flood Consequences Assessment (FCA) is considered to be commensurate to the nature and scale of the development and NRW have no overall objections to the development proposals. The FCA has considered the potential flood risks that may arise from failure of flood defences along the River Dee in this location, during the 1 in 200 year tidal event (including allowance for sea level rise over the next 75 years). The results of this assessment show that the entire site and it's adjoining access and egress routes would be susceptible to flooding during that event. In order to manage this risk, the FCA recommends that a Flood Management Plan be undertaken, in consultation with FCC emergency planners, so that the users of the site know what to do before, during and after a potential flood event.

7.23 Subject to a condition for the submission of a Flood Management Plan, the proposed development is considered acceptable and inline with Policy EMP17: Flood Risk of the adopted Flintshire UDP and TAN15.

7.24 **Drainage**

All processing and storage would be carried out under cover within the existing building. Whilst the feedstock would arrive in a dry condition from which water is not expected to drain, a dual drainage system is provided for surface and foul water. The floors of the bunded buildings drain into the foul system and surface water is discharged through interceptors on site at present.

7.25 Whilst drainage details have been provided with the application, these details are considered to be incomplete. The access statement states that the floors of the bunded buildings drain into the foul system. As these bunded areas are to be used to store and treat biodegradable waste, there is likely to be a discharge of leachate. The applicant may therefore need to inform Welsh Water/Dŵr Cymru of a trade discharge to their foul sewer system. Dŵr Cymru have been consulted but have not commented on the application. An informative would be added to any decision notice regarding this matter.

7.26 The access statement also states that surface water is discharged through interceptors but it does not state where the interceptors discharge to. It is known that there is a discharge point at the rear of the site into Mold Junction Drain. Should planning permission be granted, prior to the importation of any additional waste, a drainage plan of the site which includes both foul and surface water drainage systems and storage areas, spill kits and fire fighting equipment shall be submitted for approval to the Local Planning Authority. Subject to the submission of drainage details, the project is considered to be inline with Policy EWP16 of the Flintshire UDP.

7.27 **Access/transport**

The application provides an indication of average and maximum daily vehicle movements. The maximum HGV and small delivery vehicles would be 30 movements which would include deliveries of waste and also exportation of fuel pellets. Some pellets would stay on site for use within the in-house biomass boiler.

7.28 Whilst the applicant has applied for a 24 hour operations for pellet/briquette production, deliveries would be between 07:00 – 19:00 Monday to Saturday, with no deliveries on Sundays or public holidays. Access and egress would be restricted only to the access from and onto River Lane. Should planning permission be granted, a condition would prevent access from and onto Ewart Street/Flint Road.

7.29 The Head of Assets and Transport has not objected to the proposal. The application forms part of is an existing site, on an existing industrial estate with no new access provision. It is considered that the local highway network and access has sufficient capacity to accommodate the proposed vehicles. Subject to a condition to restrict access to River Lane only, it is considered that the proposal is inline with the provisions of Policy AC13 of the Flintshire UDP and TAN18.

7.30 ***Amenity; Air Quality; dust and bioaerosols, Noise, Odour, Flies, Vermin and litter***

Concerns have been raised in relation to the application due to the impact on amenity of the occupants and users of the units surrounding the site, residential properties and the proximity to St David's High School. The High School is located approximately 300 metres to the south of the site but there are additional industrial units and the railway lane between the site and the school. The nearest residential properties are approximately 200 metres to the south of the site, again with industrial units and the railway lane between the site and the residential properties.

7.31 Concerns have been raised which include external storage of waste which would give rise to reduced air quality, unacceptable levels of dust, bioaerosols, noise, odour, flies, vermin and litter which could all give rise to a detrimental impact on amenity. Whilst there is a large amount of waste currently stored on site outside, should planning be granted, all waste storage and processing would be undertaken within the existing buildings. This would be conditioned. At present the site boundary has been covered with black sheeting which has been installed to prevent windblown dust, fibres and litter from the waste which is currently stored outside. The purpose is not to conceal what is happening within the site boundaries as some objectors have raised. Once the waste which is stored outside is removed, the sheeting would also be removed.

7.32 Should planning permission be granted, all waste would be stored and processed inside the buildings with the roller doors shut, and the buildings would be maintained to ensure that the proposal would not give rise to wind blow dust and litter. A negative air pressure would be maintained within the process buildings so that dust, odours and bioaerosols would not be vented to the atmosphere. Air drawn from the storage and process buildings would be ducted into a biofilter which would be installed for this purpose. In relation to dust, the site has a road sweeper which would be used to clean internal and external areas to ensure dust is kept to a minimum. Should planning permission be granted, details of the biofilter would be required to be submitted and installed as approved. A dust management plant would also be required.

7.33 The application seeks 24 hour production for fuel pellets. Processing of waste would involve shredding, screening, drying and the creating the pellets/briquettes by pressure. The machinery used within the process would give rise to noise emissions. However, the nature of the machinery and processes involved are akin to that associated with B2 use which is permitted on site. However, internal processing of waste with the doors shut should ensure that noise is not excessive or harmful to amenity. Should planning permission be granted, a condition would be imposed to ensure that the rating level of noise

emitted from the site's process plant, equipment and machinery shall not exceed 5 LAeq (1hr daytime and 5min night time) above the background level. Furthermore, a noise management plan would also be required.

- 7.34 Objections and complaints have been received in relation to the site emitting an odour. For a long period of time a large quantity of waste (approximately 4,500 tonnes) has been stored on site, both externally and internally which have given rise to odour complaints which the Local Authority and Natural Resources Wales have investigated. Should planning permission be granted, any waste stored on site would be within a building, and furthermore would not be stored for such a long period of time. Thus reducing the time in which any waste could generate odours.
- 7.35 Some waste such as wood has an odour which would not be considered to be malodorous. It is accepted that odours would be emitted from the waste due to the biological degradation of the waste. However, all activities would be carried out inside the existing buildings, the biofilter would ensure odours are controlled affectively, and an odour management plan would be required by condition.
- 7.36 Furthermore, food waste would not be permitted to be imported on site and the existing waste stored on site does not contain food waste which would give rise to malodours. Independent testing of waste which is currently stored on site has been carried out and concludes that the waste is derived of paper, plastics, plastic film, cardboard, carpet fibres, wood and wood products. There was no evidence of food waste following the independent testing. As such, since there would be no food contained within the waste stream, there would nothing which would attract vermin, or flies on site.
- 7.37 Subject to conditions in relation to noise limits, the submission of a dust and odour management scheme, and details of the biofilter, no food waste, no external processing or storage of waste, and the roller doors shut and maintenance of the buildings, it is considered that there should be no detrimental impact on amenity. As such, it is considered that the proposal accords with the provisions of TAN21, EWP8, EWP12 and EWP13 of the Flintshire UDP.
- 7.38 Furthermore, in addition to planning controls secured by condition, NRW would also require pollution prevention mechanisms and methods as part of the Environmental Permit process
- 7.39 ***Habitat Regulations and impact on designated sites.***
The site is immediately adjacent to the River Dee SSSI/SAC which is principally designated for migratory fish (Atlantic salmon) and otter. There is a strip of salt marsh adjacent to the river (an SSSI rather than an SAC feature) but the habitats immediately adjacent to the development (and the cycle path) are transitional habitats dominated

by nettle. The site boundary consists of a wall with railings and 4 metre high vegetation which should be retained and enhanced.

- 7.40 Whilst the wall and the railings are within the control of the applicant, the vegetation is not, and therefore we cannot condition the requirement of an enhanced landscaping scheme off site. However, the Saltney 'Sense of Place' project does include landscaping of the river corridor and footpaths adjacent to the River Dee which abuts the site boundary. Therefore, should the applicant contribute to this project to facilitate its delivery, the landscaping would be enhanced which would assist in mitigation against indirect impacts of the SAC.
- 7.41 It is considered that the change of use proposal would have no direct impacts on the SAC or features, but there is the potential for indirect effects for example on the water quality of the River Dee and noise disturbance on River Dee features namely otter. However, the required drainage plan would ensure that there should be no indirect effects on the river quality of the River Dee.
- 7.42 The applicant submitted a statement to inform the Habitat Regulations Assessment process. It is considered that, as long as mitigation measures as specified are adhered to, it is considered that the proposal is not likely to have a significant effect on the SAC, SPA or Ramsar Site.
- 7.43 Subject to a condition ensuring that the mitigation measures as specified within the submitted Habitat Regulation Assessment are implemented, and contributions to the Saltney and Saltney Ferry 'Sense of Place' Riverside Walk Project, it is considered that the proposal accords with the provisions of Policy WB2 of the Flintshire UDP, TAN5 and the Conservation and Habitats Regulations (2010)
- 7.44 ***Environmental Permitting***
The applicant is in the process of applying to NRW for an Environmental Permit for *'Making solid fuel (other than charcoal) from waste by any process involving the use of heat'*. Within the permit application, the applicant will need to demonstrate to NRW that any impacts from the activities are minimised or managed appropriately. NRW are currently undertaking investigations as the applicant has brought waste materials onto the site prior to an Environmental Permit being granted. This matter is not material to the planning process as planning permission (should it be granted) would be granted to the land and not the operator. However, no more mixed waste must be accepted at the site until an Environmental Permit is in place.
- 7.45 Furthermore, the applicant has applied to NRW for a Waste Installation Permit. This application does not include the provision for an energy from waste facility. It does however include the provision of a 750kW biomass boiler which would be used for internal heating and

drying within the process and the heat would be used in the production of waste fuel pellets which would be produced on site as part of this application. Should the applicant wish to install a larger energy from waste unit, this would require an additional planning permission from the Local Planning Authority and a waste installation permit from NRW.

7.46 Should planning permission be granted, a condition would be attached to ensure that there would be no exportation of the heat, steam or electricity produced on site that has been derived from waste recovery.

7.47 ***Public Rights of Way***

The Public Rights of Way officer has confirmed that Public Footpath 2 abuts the site but is unaffected by the development. Whilst the proposal would not directly physically affect the public right of way, the proposal may have an impact on the enjoyment of the right of way.

7.48 As discussed above, Councillor Richard Lloyd has requested that the applicant enter into a Section 106 agreement to contribute towards the funding required for Phase 2 of the Saltney and Saltney Ferry 'Sense of Place' Riverside Walk Project. This project has already secured funding from alternative sources and requires a further £5100. The project would deliver community benefits in the form of a nature trail adjacent to the site along the River Dee, management of woodland and vegetation along the river, the creation of paths and linkages to the All Wales Coastal Path to increase accessibility, the provision of benches, interpretation and information panels, wildlife habitat creation and art work.

7.49 The applicant has agreed to enter into this section 106 legal agreement which would provide funding for landscaping along the river corridor and other community benefits. The delivery of this project would mitigate against any impacts the proposal may have on the Public Right of Way and, as such, it is considered that the proposal would accord with Policy AC2 of the Flintshire UDP.

8.00 **CONCLUSION**

8.01 The proposed application for change of use to retain existing uses and include sui generis waste use to create fuel pellets and briquettes from waste would effectively reduce reliance on fossil fuels and divert waste from disposal and move this waste up the Waste Hierarchy. It would use existing buildings which are permitted for B2 and B8 uses which are akin to the proposed development.

8.02 TAN 21 states that where a proposal is environmentally unacceptable or would cause impacts on amenity, and the problems cannot be mitigated to an acceptable standard by conditions, planning permission should be refused. It is considered that the proposal

would be acceptable and would not give rise to an unacceptable impact on amenity and therefore planning permission should be granted. The storage and processing of waste, and the manufacture of fuel pellets/briquettes would be carried out within existing buildings and there would be adequate controls on dust, noise, and odour through the imposition of conditions and good management practices.

8.03 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

8.04 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above and to the applicant entering into a Section 106 legal agreement to provide funds towards the implementation of Phase 2 of the Saltney 'Sense of Place' Riverside Walk Project to mitigate against impacts on the public right of way and to provide mitigation in relation to the SAC, there is no sustainable planning reason why planning permission should be refused. Accordingly, it is recommended that planning permission should be granted. If the Section 106 Obligation (as outlined above) is not completed within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

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